

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

In re

BESTWALL LLC,¹

Debtor.

Chapter 11

Case No. 17-31795 (LTB)

**MOTION OF THE DEBTOR FOR RECONSIDERATION OF THE ORDER
APPROVING THE APPLICATION OF THE OFFICIAL COMMITTEE OF
ASBESTOS CLAIMANTS AUTHORIZING THE RETENTION AND EMPLOYMENT
OF SPECIAL LITIGATION COUNSEL FOR MEDICAL SCIENCE MATTERS**

The above-captioned debtor and debtor-in-possession (the "Debtor") hereby seeks reconsideration of the *Order Approving Application of the Official Committee of Asbestos Claimants for an Order Authorizing the Retention and Employment of (A) Kazan, McClain, Satterley & Greenwood, a Professional Law Corporation; (B) Maune Raichle Hartley French & Mudd, LLC; (C) Ruckdeschel Law Firm, LLC; and (D) Weitz & Luxenberg PC, as Special Litigation Counsel for Any Medical Science Matters Arising in Connection With an Estimation Hearing* [Docket No. 426] (the "Retention Order"). In support of this Motion, the Debtor respectfully represents as follows:

Preliminary Statement

1. On June 11, 2018, the Official Committee of Asbestos Claimants (the "ACC") filed the *Ex Parte Application of the Official Committee of Asbestos Claimants for an Order Authorizing the Retention and Employment of (A) Kazan, McClain, Satterley & Greenwood, a Professional Law Corporation; (B) Maune Raichle Hartley French & Mudd,*

¹ The last four digits of the Debtor's taxpayer identification number are 5815. The Debtor's address is 100 Peachtree Street, N.W., Atlanta, Georgia 30303.

LLC; (C) Ruckdeschel Law Firm, LLC; and (D) Weitz & Luxenberg PC, as Special Litigation Counsel for Any Medical Science Matters Arising in Connection With an Estimation Hearing [Docket No. 424] (the "Application"). By the Application, the ACC requested authority to retain at least five senior level professionals and other lawyers from four separate law firms to serve as special litigation counsel for any medical science matters that may arise in connection with a potential future estimation hearing. Application, ¶¶ 13, 15. The Application sought to retain these various firms retroactive to, and effective as of, April 1, 2018 (the "Retention Date"). *Id.* at ¶ 30. On June 14, 2018, the Court entered the Retention Order on an *ex parte* basis.

2. As an initial matter, the Debtor does not oppose the ACC's retention of special counsel to assist with medical science issues in connection with any future hearing on the estimation of the Debtor's asbestos liabilities, nor does the Debtor have any issues with any of the identified firms selected to serve as special counsel for that purpose. But, the Debtor objects to the retention of *four* professional firms to fulfill this single role. There is no justification offered in the Application for the retention of so many firms for this role, nor has the Committee adequately explained the purported need for four firms. The Debtor has significant concerns that the retention of multiple firms will lead to unnecessary duplication of effort, increased costs and a waste of estate resources. The Debtor submits that no more than two of these firms should be retained.

3. Further, the Debtor has concerns about certain additional terms of the retentions described in the Application and the declarations of the retained professionals attached thereto (collectively, the "Declarations"). Although the hourly rates proposed for these firms do not appear to be out of line with rates charged by other firms that have been engaged in this Chapter 11 Case, neither the Application nor the Declarations provide any basis to establish

the reasonableness of these rates, including whether the rates are the same as or different from rates charged by these firms in other cases where hourly rates have been utilized. The Debtor also has concerns regarding the retention of these professionals (a) pursuant to section 328 of the Bankruptcy Code (rather than section 1103 of the Bankruptcy Code exclusively) and (b) retroactively as of the Retention Date (more than 60 days before the filing of the Application) because, in both cases, the requested relief is extraordinary and does not seem warranted.

Relevant Background

Background Regarding the Debtor

4. On November 2, 2017 (the "Petition Date"), the Debtor commenced this reorganization case (the "Chapter 11 Case") by filing a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").

5. The Debtor is authorized to continue to manage its property and operate its business as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

6. A comprehensive description of the Debtor, its history, its assets and liabilities and the events leading to the commencement of this chapter 11 case can be found in the declaration of Tyler L. Woolson [Docket No. 2] (the "First Day Declaration"), which was filed on the Petition Date.² In addition to the First Day Declaration, the Debtor filed an

² As further described in the First Day Declaration and the *Debtor's Objection to Omnibus Motion to Reconsider the Scope of Ex Parte Orders Approving Employment of: (I) King & Spalding LLP and (II) Schachter Harris LLP* [Docket No. 258], despite the ACC's repeated characterization of the Debtor as an entity "with limited assets," the assets that the Debtor's predecessor assigned to the Debtor (including a funding agreement with its non-debtor affiliate, Georgia-Pacific LLC) ensure that the Debtor has the same financial resources and ability to satisfy asbestos claims as its predecessor had prior to the restructuring by which the Debtor was formed. See Application, ¶ 6; see also *Omnibus Motion to Reconsider the Scope of Ex Parte Orders Approving Employment of Each of: (I) King & Spalding LLP and (II) Schachter Harris LLP as Debtor's Special Counsel Pursuant to Section 327(e) of the Bankruptcy Code Effective as of the Petition Date* [Docket No. 192], ¶ 2 (similarly referring to the Debtor as an entity "with limited assets").

Informational Brief [Docket No. 12] to provide additional information about its asbestos litigation, related costs and plans to address these matters in this chapter 11 case.

7. On November 16, 2017, the Court entered an order [Docket No. 97] appointing the ACC in the Chapter 11 Case, as modified by an order entered on March 29, 2018 [Docket No. 348]. On February 23, 2018, the Court entered an order [Docket No. 278] appointing Sander L. Esserman as the legal representative for future asbestos claimants, pursuant to section 105(a) and section 524(g)(4)(B)(i) of the Bankruptcy Code (the "FCR").

Background Regarding the Application and Order

8. By the Application, the ACC sought the Court's authority to retain four law firms (collectively, the "Retained Firms")³ as special litigation counsel for medical science matters that may arise in connection with a potential estimation hearing. In particular, the Application identified five senior lawyers from the Retained Firms to co-lead this engagement (collectively, the "Lead Attorneys"),⁴ and contemplated that additional attorneys and paraprofessionals from each Retained Firm would assist the Lead Attorneys in providing services to the ACC. The Application sought retention of the Retained Firms pursuant to, among other provisions, section 328 of the Bankruptcy Code and Rules 2014-1 and 9013-1(f) of the Rules of Practice and Procedure of the United States Bankruptcy Court for the Western District of North Carolina (the "Local Bankruptcy Rules").

³ The Retained Firms are: (a) Kazan, McClain, Satterley & Greenwood, a Professional Law Corporation ("Kazan McClain"); (b) Maune Raichle Hartley French & Mudd, LLC ("Maune Raichle"); (c) Ruckdeschel Law Firm, LLC ("Ruckdeschel Law"); and (d) Weitz & Luxenberg PC ("Weitz & Luxenberg"). Application, 1. Maune Raichle, Kazan McClain and Weitz & Luxenberg all serve on the ACC on behalf of their respective asbestos plaintiff clients, and Kazan McClain is also a co-chair of the ACC.

⁴ The proposed Lead Attorneys are (a) John Langdoc of Kazan McClain, (b) Joseph Satterley of Kazan McClain, (c) Christian Hartley of Maune Raichle, (d) Jonathan Ruckdeschel of Ruckdeschel Law and (e) Jerry Kristal of Weitz & Luxenberg. Application, ¶ 15.

9. On June 14, 2018, the Court entered the *ex parte* Retention Order granting the Application. Although the Retention Order is silent on this point, Local Bankruptcy Rule 9013-1(f) (applicable to *ex parte* relief) provides that any party is entitled to request a hearing or request that the Court reconsider entry of the Retention Order by filing a motion for reconsideration within 14 days of service of the order.

10. After the Application was filed, the Debtor initiated discussions with the ACC regarding certain questions and concerns it had relating to the proposed retentions. To provide additional time for the Debtor and the ACC to resolve the Debtor's questions and concerns, the parties agreed to, and the Court entered, an order [Docket No. 431] (the "Agreed Extension Order") establishing that any motion seeking reconsideration of the Retention Order filed by the Debtor on or before July 6, 2018 shall be deemed timely pursuant to Local Bankruptcy Rule 9013-1(f). Because the parties were unable to reach agreement with respect to the concerns raised by the Debtor, the Debtor now files this Motion.

Jurisdiction

11. This Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

12. Pursuant to Local Bankruptcy Rule 9013-1(f) and the Agreed Extension Order, the Debtor requests entry of an order, substantially in the form attached hereto as Exhibit A (the "Proposed Order"), (a) granting reconsideration of the Retention Order and (b) approving retention of special litigation counsel by the ACC for medical science matters

(generally, the "Special Counsel") subject to the terms and conditions described in the Proposed Order.

Argument

13. Local Bankruptcy Rule 9013-1(f) provides that "any party shall be entitled to ... request that the Court reconsider any *ex parte* relief..." Local Bankruptcy Rule 9013-1(f). The Debtor hereby seeks reconsideration of the Retention Order for the reasons described herein.

A. Retention of Four Law Firms for the Same Role Is Unnecessary and Will Waste Estate Resources

14. Retained counsel should not provide, or be compensated for, unnecessarily duplicative services rendered in a bankruptcy case. See In re Int'l Home Fashions, Inc., No. 1:09CV206, 2010 WL 3895730, at *2 (W.D.N.C. Sept. 29, 2010) (holding that "[c]ompensation is not allowed for services that were unnecessarily duplicative" and affirming the bankruptcy court's reduction of the creditor committee's legal fees); In re Walker, No. 11-30340, 2013 WL 5676227, at *3 (Bankr. W.D.N.C. Oct. 18, 2013) (holding that attorney services that are "excessive or unnecessarily duplicative[]" are not to be compensated" and declining to award legal fees for duplicative legal work); In re Bock, 297 B.R. 22, 30 (Bankr. W.D.N.C. 2002) (reducing fees of debtor's counsel for work that was duplicative of other retained counsel's work).

15. Here, the Retained Firms have been retained to provide duplicative services to the ACC. By the Application, the ACC sought retention of four law firms, including the five Lead Attorneys, to fill the same role of special litigation counsel for medical science matters. The Application makes clear that each of the Retained Firms will provide the exact same services for the ACC. See Application, ¶ 14 (listing the services that all of the Retained Firms will provide). Consistent with that expectation, the Declarations state that each firm will

provide all of the services listed in the Application.⁵ See Declarations, ¶ 4. Moreover, the Declarations also reflect that each of the Retained Firms anticipates completing identical tasks in furtherance of those services. See Declarations, ¶ 5 (listing the tasks that each professional anticipates performing).

16. The Debtor has no opposition to any of the firms selected by the ACC, but the Application is silent as to why four professional firms are needed for the role of Special Counsel. It does not distinguish among the firms based on their respective expertise, individual roles or otherwise, and it provides no precedent from any other case where four firms were needed for this discrete role. With respect to likely duplication, the Application provides only that the Retained Firms "will coordinate to ensure that their services will complement each other;" but it wholly fails to describe how duplication of services will be avoided. Application, ¶ 20. In fact, the Application suggests the opposite – that all four Retained Firms will provide identical services and tasks in furtherance of the same role.

17. Before filing this Motion, the Debtor contacted the ACC to understand the justification for its retention of four law firms. The ACC offered essentially two responses, both focused on the small size of the firms. First, the ACC indicated that retaining all four firms is necessary due to the possibility that certain of the Lead Attorneys may be unavailable at the time of the estimation hearing because of unpredictable litigation schedules. But, as the Debtor understands it, all of the Lead Attorneys and their respective firms would be working on the same medical science issues for the entire period leading up to any estimation hearing, even if

⁵ The Declarations state that the Retained Firms will each provide services with respect to the same general matters as are listed in the Application, and the Declaration of Jonathan Ruckdeschel (the "Ruckdeschel Declaration") includes one additional matter relating to the alleged "occurrence and significance of industry-sponsored seeding of the medical and scientific literature with studies and articles coordinated by industry and counsel." Ruckdeschel Declaration, ¶ 4.

one or more of those firms ultimately would not have a significant role to play in the estimation. Second, the ACC suggested that the number of retained lawyers is relatively small even if they work for multiple firms, as if the multiple firms should be treated as one firm. Both these answers highlight the built-in redundancy of a four firm approach – an approach that will inexorably lead the Retained Firms to undertake duplicative efforts to prepare for an estimation hearing so that each may be prepared to provide services interchangeably with the others.

18. The Debtor objects to the retention of four firms to actively serve the same role because, under such circumstances, unnecessary duplication of effort among the firms is inevitable and will waste estate resources. Consistent with precedent from this Court, the Debtor believes that retention of one or two firms would be sufficient to address the medical science issues presented.⁶ The ACC, of course, would have the right to seek to retain an additional firm or firms in the future as needed to fulfill a particular role or to replace a firm that becomes unavailable.

B. The Application Does Not Demonstrate the Reasonableness of the Retained Firms' Hourly Rates

19. The Application requests compensation for services rendered by the Retained Firms at certain hourly rates that appear to be established uniquely for this Chapter 11 Case.⁷ Although the rates do not seem out of line with rates charged by other firms

⁶ In particular, in the Garlock case filed in this Court, the official committee of asbestos personal injury claimants retained two firms to serve as special counsel for medical science issues. *See Order Approving and Authorizing the Retention of Motley Rice LLC and Waters & Kraus LLP as Special Litigation Counsel to the Official Committee of Asbestos Personal Injury Claimants, In re Garlock Sealing Techs. LLC*, No. 10-31607 (Bankr. W.D.N.C. July 3, 2012) [Docket No. 2343].

⁷ The Application seeks compensation of (a) the Lead Attorneys at the rate of \$850 per hour, (b) other lawyers at a blended rate of \$450 per hour and (c) paraprofessionals at the blended rate of \$250 per hour. Application, ¶ 21. In the Declaration of John Langdoc in support of the Application (the "Langdoc Declaration"), however, Mr. Langdoc requests, on behalf of Kazan McClain, compensation at a blended rate of \$300 per hour for other professionals (presumably attorneys *or* paraprofessionals) at Kazan McClain who assist Mr. Langdoc in providing services to the ACC. Langdoc Declaration, ¶ 12.

in this Chapter 11 Case, the Application does not establish any basis or justification for the rates proposed for these firms. The Debtor acknowledges that the Retained Firms generally are retained on a contingency fee basis and do not typically charge hourly rates for their services. Nevertheless, the Debtor understands that certain, if not all, of the Retained Firms have, in other situations, established hourly rates for certain discrete litigation-related services, as well as for calculating the amount of awards for the reimbursement of attorneys' fees by defendants. The compensation of the Retained Firms in this Chapter 11 Case should be consistent with the compensation these firms currently charge on an hourly basis in other settings. Unfortunately, the Application does not provide any basis to make this assessment.

C. Substantial Contribution Fees Are Not Warranted in the Chapter 11 Case

20. Although the Retention Order does not expressly authorize the Retained Firms to seek compensation for a substantial contribution to the Chapter 11 Case, the Declarations state that each Retained Firm, "at the appropriate time and if necessary ... will apply to the Court for an award of fees pursuant to a substantial contribution application for the services it will render in connection with the estimation hearing." Declarations, ¶ 12.

21. Compensation of the Retained Firms on the basis of substantial contribution, in addition to payment of hourly fees, is not warranted in this Chapter 11 Case. As an initial matter, the Retained Firms have provided no basis to justify such additional compensation. Although the Debtor has raised concerns about the lack of justification for the proposed hourly rates of the Retained Firms, the Debtor does not object to an hourly fee compensation structure. To the extent that compensation for any retained Special Counsel's services is based on an hourly rate, the Special Counsel will be adequately compensated for its services in this case, and additional compensation based on "substantial contribution" therefore is not warranted.

22. The Court should reconsider the Retention Order to make clear that Special Counsel will charge for fees solely on an hourly basis, and no further compensation will be available based on a substantial contribution application.⁸

D. Retention Under Section 328 Is Not Appropriate for the Retained Firms

23. Retention under section 328(a) of the Bankruptcy Code can limit the flexibility of bankruptcy courts to approve reasonable compensation for the actual, necessary services rendered by retained professionals, as permitted under section 330(a)(1) of the Bankruptcy Code. See Nischwitz v. Miskovic (In re Airspect Air, Inc.), 385 F.3d 915, 920-21 (6th Cir. 2004). Unlike section 330(a)(1), section 328 of the Bankruptcy Code permits professionals to obtain prior court approval of compensation terms, thereby restricting the court's discretion over compensation "unless the bankruptcy court finds that the original arrangement was improvident due to unanticipated circumstances." Id. (citing Peele v. Cunningham (In re Texas Sec., Inc.), 218 F.3d 443, 447 (5th Cir. 2000)).

24. The ACC has not demonstrated any need to limit the Court's discretion to consider the reasonableness of the Retained Firms' compensation, nor is it clear how the use of section 328 could restrict the Court's discretion given that, in view of the hourly rate structure, the reasonableness of the Retained Firms' compensation would be determined by the nature of the services performed and the amount of time incurred to perform those services. Numerous

⁸ The Debtor understands from the ACC's counsel that the substantial contribution language may have been included in the Declarations in error. Nevertheless, the Retention Order should be clarified to avoid any confusion on this issue.

other counsel and special counsel have been retained in this Chapter 11 Case without section 328 authority,⁹ and there is no basis to grant that relief here.¹⁰

E. The Application Does Not Provide Justification for *Nunc Pro Tunc* Relief

25. Local Bankruptcy Rule 2014-1 provides that "[a]bsent extraordinary circumstances, attorneys and other professionals will not be appointed *nunc pro tunc*." Local Bankruptcy Rule 2014-1. Local Bankruptcy Rule 2014-1 also requires applications for the appointment of professionals to be filed within 30 days of the date services commence in order to be considered timely. Id. Applications filed outside of 30 days, therefore, must demonstrate the "extraordinary circumstances" warranting *nunc pro tunc* relief.

26. Although the Application was filed more than two months after the requested Retention Date of April 1, 2018, it does not provide any explanation as to why

⁹ See *Ex Parte Order Authorizing Retention and Employment of Young Conaway Stargatt & Taylor, LLP as Attorneys for the Future Claimants' Representative*, In re Bestwall LLC, No. 17-31795 (Bankr. W.D.N.C. Feb. 23, 2018) [Docket No. 280] (the FCR's counsel retained under sections 105, 524(g) and 1103 of the Bankruptcy Code); *Ex Parte Order Authorizing Retention and Employment of Hull & Chandler as Local Co-Counsel for the Future Claimants' Representative*, In re Bestwall LLC, No. 17-31795 (Bankr. W.D.N.C. Feb. 23, 2018) [Docket No. 281] (the FCR's local co-counsel retained under sections 105, 524(g) and 1103 of the Bankruptcy Code); *Order Authorizing Debtor to Retain and Employ Jones Day as Counsel as of the Petition Date*, In re Bestwall LLC, No. 17-31795 (Bankr. W.D.N.C. Nov. 2, 2017) [Docket No. 39] (the Debtor's counsel retained under section 327(a) of the Bankruptcy Code); *Ex Parte Order Authorizing Retention and Employment of Robinson, Bradshaw & Hinson, P.A. as Special Counsel for Asbestos Claims Estimation Matters and Local Bankruptcy Counsel for Debtor as of Petition Date*, In re Bestwall LLC, No. 17-31795 (Bankr. W.D.N.C. Nov. 2, 2017) [Docket No. 37] (the Debtor's special counsel for estimation matters and local bankruptcy counsel retained under section 327(a) of the Bankruptcy Code); *Ex Parte Order Authorizing the Debtor to Retain and Employ Bates White, LLC as Asbestos Consultants as of the Petition Date*, In re Bestwall LLC, No. 17-31795 (Bankr. W.D.N.C. Nov. 2, 2017) [Docket No. 40] (the Debtor's special litigation counsel retained pursuant to section 327(a) of the Bankruptcy Code); *Order Approving Employment of King & Spalding LLP as Debtor's Special Counsel Pursuant to Section 327(e) of the Bankruptcy Code Effective as of the Petition Date*, In re Bestwall LLC, No. 17-31795 (Bankr. W.D.N.C. Nov. 2, 2017) [Docket No. 36] (the Debtor's special litigation counsel retained under section 327(e) of the Bankruptcy Code); *Ex Parte Order Authorizing the Debtor to Retain and Employ Schachter Harris LLP as Special Litigation Counsel*, In re Bestwall LLC, No. 17-31795 (Bankr. W.D.N.C. Nov. 2, 2017) [Docket No. 38] (the Debtor's special litigation counsel retained under section 327(e) of the Bankruptcy Code).

¹⁰ Although the Debtor understands that other counsel for the ACC have been retained under both sections 1103(a) and 328(a) of the Bankruptcy Code, there, like here, the use of section 328 appears to serve no purpose.

the Retained Firms should be retained as of the Retention Date, much less refer to any extraordinary circumstances that justify *nunc pro tunc* retention. Given that no estimation proceeding has even commenced, such extraordinary circumstances do not appear to be present. Absent a demonstration of extraordinary circumstances, the requested *nunc pro tunc* relief should not be granted under the Local Bankruptcy Rules.

Notice

27. Consistent with the *Order Establishing Certain Notice, Case Management and Administrative Procedures* [Docket No. 65] (the "Case Management Order"), notice of this Motion has been provided to: (a) the Office of the United States Bankruptcy Administrator for the Western District of North Carolina; (b) counsel to the ACC; (c) counsel to the FCR; (d) counsel to the Debtor's non-debtor affiliate, Georgia-Pacific LLC, a Delaware limited liability company; and (e) the other parties on the Service List established by the Case Management Order. The Debtor submits that, in light of the nature of the relief requested, no other or further notice need be provided.

No Prior Request

28. No prior request for the relief sought herein has been made to this Court or any other court.

WHEREFORE, the Debtor respectfully requests that the Court enter an order substantially in the form of the Proposed Order granting: (a) the relief requested herein; and (b) such other and further relief to the Debtor as the Court may deem proper.

Dated: July 6, 2018
Charlotte, North Carolina

Respectfully submitted,

/s/ Garland S. Cassada

Garland S. Cassada (NC Bar No. 12352)
David M. Schilli (NC Bar No. 17989)
Andrew W.J. Tarr (NC Bar No. 31827)
ROBINSON, BRADSHAW & HINSON, P.A.
101 North Tryon Street, Suite 1900
Charlotte, North Carolina 28246
Telephone: (704) 377-2536
Facsimile: (704) 378-4000
E-mail: gcassada@robinsonbradshaw.com
dschilli@robinsonbradshaw.com
atarr@robinsonbradshaw.com

Gregory M. Gordon (TX Bar No. 08435300)
Daniel B. Prieto (TX Bar No. 24048744)
JONES DAY
2727 North Harwood Street, Suite 500
Dallas, Texas 75201
Telephone: (214) 220-3939
Facsimile: (214) 969-5100
E-mail: gmgordon@jonesday.com
dbprieto@jonesday.com
(Admitted *pro hac vice*)

Jeffrey B. Ellman (GA Bar No. 141828)
Brad B. Erens (IL Bar No. 06206864)
JONES DAY
1420 Peachtree Street, N.E., Suite 800
Atlanta, Georgia 30309
Telephone: (404) 581-3939
Facsimile: (404) 581-8330
E-mail: jbellman@jonesday.com
bberens@jonesday.com
(Admitted *pro hac vice*)

ATTORNEYS FOR DEBTOR AND
DEBTOR IN POSSESSION

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

In re

BESTWALL LLC,¹

Debtor.

Chapter 11

Case No. 17-31795 (LTB)

**ORDER GRANTING RECONSIDERATION OF THE ORDER
APPROVING THE APPLICATION OF THE OFFICIAL COMMITTEE OF
ASBESTOS CLAIMANTS AUTHORIZING THE RETENTION AND EMPLOYMENT
OF SPECIAL LITIGATION COUNSEL FOR MEDICAL SCIENCE MATTERS**

This matter coming before the Court on the *Motion of the Debtor for Reconsideration of the Order Approving the Application of the Official Committee of Asbestos Claimants Authorizing the Retention and Employment of Special Litigation Counsel for Medical Science Matters* (the "Motion"),² filed by the debtor and debtor in possession in the above-captioned case (the "Debtor"); the Court having reviewed the Motion and having considered the statements of counsel and the evidence adduced with respect to the Motion at a hearing before the Court (the "Hearing"); the Court finding that (a) the Court has jurisdiction

¹ The last four digits of the Debtor's taxpayer identification number are 5815. The Debtor's address is 100 Peachtree Street, N.W., Atlanta, Georgia 30303.

² Capitalized terms not otherwise defined herein have the meanings given to them in the Motion.

over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409, (c) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), (d) notice of the Motion and the Hearing was sufficient under the circumstances; and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. The Retention Order [Docket No. 426] is hereby amended and superseded as set forth herein.
3. The ACC is authorized to retain as Special Counsel only those professionals as determined on the record at the Hearing.
4. The Special Counsel retained hereunder shall be compensated pursuant to such terms as determined on the record at the Hearing. For the avoidance of doubt, the Special Counsel shall not be entitled to compensation for any substantial contribution to the Chapter 11 Case and shall be limited to compensation based on the approved hourly rates.
5. The Special Counsel shall be retained pursuant to section 1103 of the Bankruptcy Code, Rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules 2014-1, 2016-1 and 9013-1(f). For the avoidance of doubt, the Special Counsel shall not be retained pursuant to section 328(a) of the Bankruptcy Code.
6. The ACC is authorized to retain the Special Counsel as of May 11, 2018.
7. This Order shall be immediately effective and enforceable upon its entry.

8. This Court shall retain exclusive jurisdiction over any and all matters arising from or related to the implementation, interpretation or enforcement of this Order.

This Order has been signed electronically.
The Judge's signature and Court's seal appear at the top of the Order.

United States Bankruptcy Court